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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,863	10/11/2005	Beat Romeo Rigert	UF-P236USw	2606
46188	7590	12/13/2007		
THELEN REID BROWN RAYSMAN & STEINER LLP			EXAMINER	
P. O. BOX 640640			NGUYEN, PHU HOANG	
SAN JOSE, CA 95164-0640			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			12/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,863	<b>Applicant(s)</b> RIGERT, BEAT ROMEO	
	<b>Examiner</b> Phu H. Nguyen	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/11/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/11/2008.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (U.S Patent No. 3651817) in view of Trikilis (U.S Patent No. 4989368).

Regarding claim 5, Baker discloses a portable container (12, fig. 1) for extinguishing and for temporary storing stubs, the container comprising:

a drum (around reference sign 18, fig. 5) rotatable on an axis, the drum having at least one recess (56, fig. 5) running parallel to said axis for temporary accepting a cigarette stub.

a chamber (space containing reference sign 38, fig. 5) closed to surroundings for storing extinguished cigarette stubs.

an opening (space showing reference sign 16, fig. 1) that is arranged opposite to a front face of the drum and that in specific rotating positions of the drum aligns with said at least one recess of the drum.

a lid (14, fig. 5) connected to the drum, the lid having at least one opening for the insertion of cigarette stub, whereby the lid either uncover or covers said opening of the container.

Baker does not expressly disclose the drum divided into drum parts and a plurality of elements arranged on a side wall of the container. Trikilis discloses a revolving door (corresponding to the claimed "drum") includes pivot column (corresponding to the claimed "axis") having a plurality of integrally formed first grooves extending longitudinally there along at equidistantly spaced intervals (corresponding to the claimed "gaps running orthogonally to said axis") there around. Providing a plurality of barrier members (drum parts) and locking bars (corresponding to the claimed "a plurality of elements") extending from side wall that fit into the gaps and change the cross section of the recess (space between the reference sign 3 and 3) (Abstract and figure 1). This construction is provided to facilitate selective passage between two separated areas (column 2, lines 45-47). Therefore, it would have been obvious to modify they portable container as taught by Trikilis to facilitate selective passage between two separated areas that preventing the stub from clogging up the containing by re-entering the space where it was first entered the portable container.

Regarding claim 7, Snadden discloses an end of at least one recess located opposite said fron face of the drum is terminated by a floor area (below reference sign 19, fig. 5).

Regarding claims 8 and 10, Trikkilis discloses the number of parts amounts to at least four.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (U.S Patent No. 3651817) and Trikilis (U.S Patent No. 4989368) as applied to claim 5 above and further in view of Manion (U.S Patent No. 2661747). The

combination of Baker and Trikilis does not expressly disclose the chamber has a bent inner floor.

Regarding claim 6, Manion discloses a portable container with chamber (11, fig. 2) that has a bent inner floor. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the a bent floor for the chamber at least as a design choice.

Regarding claim 9, Trikkilis discloses the number of parts amounts to at least four.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu H. Nguyen whose telephone number is 571-272-5931. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.N 12/9/2007



*Primary Examiner*